

**Assembly Bill No. 538**

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Passed the Assembly September 6, 2013

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*Chief Clerk of the Assembly*

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Passed the Senate September 3, 2013

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 26384, 26405, 27600, 28000, 28160, 28210, and 28215 of, and to add Sections 26620, 27620, and 31835 to, the Penal Code, relating to firearms.

## LEGISLATIVE COUNSEL'S DIGEST

AB 538, Pan. Firearms.

(1) Existing law, subject to specified exceptions, makes it a crime to openly carry an exposed, unloaded handgun outside a vehicle in specified public places. Existing law exempts from this crime, in part, the open carrying of an unloaded handgun at an auction or similar event for a nonprofit public benefit or mutual benefit corporation, if the handgun is to be auctioned or sold for the nonprofit public benefit or mutual benefit corporation, and the handgun is delivered by a person licensed by existing law.

This bill would make technical, nonsubstantive changes to these provisions.

(2) Existing law, subject to specified exceptions, including use by a member of a club or organization organized for the purpose of practicing shooting at targets upon established target ranges while the members are using handguns upon the target ranges or incident to the use of a firearm that is not a handgun at that target range, makes it a crime for a person to carry an unloaded firearm that is not a handgun outside a vehicle while in an incorporated city or city and county.

This bill would clarify that the exception applies to members of a shooting organization while the members are using firearms that are not handguns upon the target ranges and would make additional technical changes.

(3) Existing law prohibits a person from selling, leasing, or transferring a firearm unless the person is issued a license. Existing law provides for specified exemptions to that licensing requirement, including the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer or retiring peace officer, as specified.

This bill would also exempt from the licensing requirement the sale, delivery, or transfer of a firearm if made by an authorized

law enforcement representative of a city, county, city and county, or of the state or federal government, to a licensed firearms dealer, a wholesaler, or a licensed manufacturer or importer of firearms or ammunition, if certain specified requirements are met. If the authorized law enforcement representative sells, delivers, or transfers a firearm to a licensed firearms dealer, the bill would require the governmental agency to enter a record of the delivery into the Automated Firearms Systems (AFS) via the California Law Enforcement Telecommunications System (CLETS) within 10 days.

(4) Existing law imposes various other restrictions on the sale, delivery, or transfer of firearms. Existing law excludes from those provisions the sale, delivery, or transfer of firearms made to an authorized law enforcement representative of a city, county, city and county, or of the state or federal government for exclusive use by that governmental agency, if certain conditions are met. Existing law provides that within 10 days of the date a firearm is acquired by the agency, a record shall be entered as an institutional weapon into the AFS via the CLETS.

This bill would require an agency that subsequently destroys that weapon to enter information that the weapon has been destroyed into the AFS via the CLETS within 10 days of destruction.

(5) Existing law provides that when neither party to a firearms transaction holds a dealer's license, the parties to the transaction are required to complete the sale, loan, or transfer of that firearm through a firearms dealer, except as specified.

This bill would exclude from those provisions the sale, delivery, or transfer of a firearm if made by an authorized law enforcement representative of a city, county, city and county, or of the state or federal government if certain specified conditions are met, including that the sale, delivery, or transfer is made to a wholesaler, or a licensed manufacturer, or importer of firearms or ammunition. The bill would require the agency to enter a record of the delivery into the AFS via the CLETS within 10 days.

(6) Existing law requires the register or record of an electronic or telephonic transfer of a firearm to include specified information, including information on certain waiting period exemptions, including a dealer waiting period exemption, and requires the firearms dealer to record on the register or record the date that the

firearm is delivered. A violation of those provisions is a misdemeanor.

This bill instead would require the register or record to include any applicable waiting period exemption information. By expanding the scope of a crime, the bill would impose a state-mandated local program. The bill would also require the register or record to include a statement that the Department of Justice shall furnish the purchaser with any information reported to the department relating to the purchaser's ownership of the firearm, that the purchaser is entitled to file a report of his or her acquisition of the firearm, and of instructions for accessing the department's Internet Web site for more information. The bill would require the firearms dealer to record his or her signature indicating delivery of the firearm, and would require the purchaser to sign the register or record on the date that the firearm is delivered to the purchaser.

(7) Existing law requires the purchaser of a firearm to present evidence to the dealer of the person's identity and age, and requires the transaction to be recorded by the dealer in a register or record of telephonic or electronic transfer. Existing law requires a dealer, upon request only, to provide a copy of the register or record of the transaction to the purchaser, and, for a private party transaction, requires the dealer, upon request, to provide the seller or purchaser with a copy of the register or record, as specified.

This bill instead would require the dealer to provide a copy of those documents to the purchaser at the time of delivery of the firearm after the dealer notes the date of delivery and the dealer's signature indicating delivery of the firearm, and the dealer and purchaser acknowledge the receipt of the firearm. The bill, for private party transactions, would require the dealer to provide a copy of the register or record to the seller at the time that the register or record is signed by the seller.

(8) Existing law prohibits a person from purchasing or receiving a handgun, except an antique firearm, without a valid handgun safety certificate, and further prohibits a person from selling, delivering, loaning, or transferring a handgun to a person who does not possess a valid handgun safety certificate, except as specified.

This bill would exclude the sale, delivery, or transfer of a firearm by an authorized law enforcement representative of a city, county, city and county, or of the state or federal government if certain

conditions are met, including that the sale, delivery, or transfer is made to one of specified persons and entities.

(9) The bill would make conforming changes.

(10) This bill would incorporate changes to Section 28160 of the Penal Code proposed by SB 683 that would become operative if this bill and SB 683 are both chaptered and this bill is chaptered last.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 26384 of the Penal Code is amended to read:

26384. Paragraph (1) of subdivision (a) of Section 26350 does not apply to, or affect, the open carrying of an unloaded handgun if all of the following conditions are satisfied:

(a) The open carrying occurs at an auction or similar event of a nonprofit public benefit or mutual benefit corporation, at which firearms are auctioned or otherwise sold to fund the activities of that corporation or the local chapters of that corporation.

(b) The unloaded handgun is to be auctioned or otherwise sold for that nonprofit public benefit or mutual benefit corporation.

(c) The unloaded handgun is to be delivered by a person licensed pursuant to, and operating in accordance with, Sections 26700 to 26915, inclusive.

SEC. 2. Section 26405 of the Penal Code is amended to read:

26405. Section 26400 does not apply to, or affect, the carrying of an unloaded firearm that is not a handgun in any of the following circumstances:

(a) By a person when carried within a place of business, a place of residence, or on private real property, if that person, by virtue of subdivision (a) of Section 25605, may carry a firearm within that place of business, place of residence, or on that private real property owned or lawfully occupied by that person.

(b) By a person when carried within a place of business, a place of residence, or on private real property, if done with the permission of a person who, by virtue of subdivision (a) of Section 25605, may carry a firearm within that place of business, place of residence, or on that private real property owned or lawfully occupied by that person.

(c) When the firearm is either in a locked container or encased and it is being transported directly between places where a person is not prohibited from possessing that firearm and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(d) If the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating Section 26400, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(e) By a peace officer or an honorably retired peace officer if that officer may carry a concealed firearm pursuant to Article 2 (commencing with Section 25450) of Chapter 2, or a loaded firearm pursuant to Article 3 (commencing with Section 25900) of Chapter 3.

(f) By a person to the extent that person may openly carry a loaded firearm that is not a handgun pursuant to Article 4 (commencing with Section 26000) of Chapter 3.

(g) As merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while engaged in the lawful course of the business.

(h) By a duly authorized military or civil organization, or the members thereof, while parading or while rehearsing or practicing parading, when at the meeting place of the organization.

(i) By a member of a club or organization organized for the purpose of practicing shooting at targets upon established target

ranges, whether public or private, while the members are using firearms that are not handguns upon the target ranges or incident to the use of a firearm that is not a handgun at that target range.

(j) By a licensed hunter while engaged in hunting or while transporting that firearm when going to or returning from that hunting expedition.

(k) Incident to transportation of a handgun by a person operating a licensed common carrier, or by an authorized agent or employee thereof, when transported in conformance with applicable federal law.

(l) By a member of an organization chartered by the Congress of the United States or a nonprofit mutual or public benefit corporation organized and recognized as a nonprofit tax-exempt organization by the Internal Revenue Service while on official parade duty or ceremonial occasions of that organization or while rehearsing or practicing for official parade duty or ceremonial occasions.

(m) Within a gun show conducted pursuant to Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) of Chapter 3 of Division 6.

(n) Within a school zone, as defined in Section 626.9, with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority.

(o) When in accordance with the provisions of Section 171b.

(p) By a person while engaged in the act of making or attempting to make a lawful arrest.

(q) By a person engaged in firearms-related activities, while on the premises of a fixed place of business that is licensed to conduct and conducts, as a regular course of its business, activities related to the sale, making, repair, transfer, pawn, or the use of firearms, or related to firearms training.

(r) By an authorized participant in, or an authorized employee or agent of a supplier of firearms for, a motion picture, television, or video production or entertainment event, when the participant lawfully uses that firearm as part of that production or event, as part of rehearsing or practicing for participation in that production or event, or while the participant or authorized employee or agent is at that production or event, or rehearsal or practice for that production or event.

(s) Incident to obtaining an identification number or mark assigned for that firearm from the Department of Justice pursuant to Section 23910.

(t) At an established public target range while the person is using that firearm upon that target range.

(u) By a person when that person is summoned by a peace officer to assist in making arrests or preserving the peace, while the person is actually engaged in assisting that officer.

(v) Incident to any of the following:

(1) Complying with Section 27560 or 27565, as it pertains to that firearm.

(2) Section 28000, as it pertains to that firearm.

(3) Section 27850 or 31725, as it pertains to that firearm.

(4) Complying with Section 27870 or 27875, as it pertains to that firearm.

(5) Complying with Section 27915, 27920, or 27925, as it pertains to that firearm.

(w) Incident to, and in the course and scope of, training of, or by an individual to become a sworn peace officer as part of a course of study approved by the Commission on Peace Officer Standards and Training.

(x) Incident to, and in the course and scope of, training of, or by an individual to become licensed pursuant to Chapter 4 (commencing with Section 26150) as part of a course of study necessary or authorized by the person authorized to issue the license pursuant to that chapter.

(y) Incident to and at the request of a sheriff, chief, or other head of a municipal police department.

(z) If all of the following conditions are satisfied:

(1) The open carrying occurs at an auction or similar event of a nonprofit public benefit or mutual benefit corporation at which firearms are auctioned or otherwise sold to fund the activities of that corporation or the local chapters of that corporation.

(2) The unloaded firearm that is not a handgun is to be auctioned or otherwise sold for that nonprofit public benefit or mutual benefit corporation.

(3) The unloaded firearm that is not a handgun is to be delivered by a person licensed pursuant to, and operating in accordance with, Sections 26700 to 26915, inclusive.



(aa) Pursuant to paragraph (3) of subdivision (b) of Section 171c.

(ab) Pursuant to Section 171d.

(ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision (c) of Section 171.7.

(ad) On publicly owned land, if the possession and use of an unloaded firearm that is not a handgun is specifically permitted by the managing agency of the land and the person carrying that firearm is in lawful possession of that firearm.

(ae) By any of the following:

(1) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 1 (commencing with Section 18710) of Division 5 of Title 2 by a person who holds a permit issued pursuant to Article 3 (commencing with Section 18900) of that chapter, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(2) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 2 (commencing with Section 30500) of Division 10 by a person who holds a permit issued pursuant to Section 31005, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(3) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 6 (commencing with Section 32610) of Division 10 by a person who holds a permit issued pursuant to Section 32650, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(4) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Article 2 (commencing with Section 33300) of Chapter 8 of Division 10 by a person who holds a permit issued pursuant to Section 33300, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(af) By a licensed hunter while actually engaged in training a dog for the purpose of using the dog in hunting that is not prohibited by law, or while transporting the firearm while going to or returning from that training.

(ag) Pursuant to the provisions of subdivision (d) of Section 171.5.

(ah) By a person who is engaged in the business of manufacturing ammunition and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while the firearm is being used in the lawful course and scope of the licensee's activities as a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and regulations issued pursuant thereto.

(ai) On the navigable waters of this state that are held in public trust, if the possession and use of an unloaded firearm that is not a handgun is not prohibited by the managing agency thereof and the person carrying the firearm is in lawful possession of the firearm.

SEC. 3. Section 26620 is added to the Penal Code, to read:

26620. Section 26500 does not apply to the sale, delivery, or transfer of a firearm when made by an authorized law enforcement representative of a city, county, city and county, or of the state or federal government, if all of the following requirements are met:

(a) The sale, delivery, or transfer is made to one of the following:

(1) A person licensed pursuant to Sections 26700 to 26915, inclusive.

(2) A wholesaler.

(3) A manufacturer or importer of firearms or ammunition licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) The sale, delivery, or transfer of the firearm is not subject to the procedures set forth in Section 18000, 18005, 34000, or 34005.

(c) If the authorized law enforcement representative sells, delivers, or transfers a firearm that the governmental agency owns to a person licensed pursuant to Sections 26700 to 26915, inclusive, within 10 days of the date that the firearm is delivered to that licensee pursuant to this section by that agency, the agency has entered a record of the delivery into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS). Any agency without access to the AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 4. Section 27600 of the Penal Code is amended to read:

27600. (a) Article 1 (commencing with Section 27500) does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a firearm is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to the AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(d) Any agency that is the registered owner of an institutional weapon in accordance with subdivision (c) that subsequently destroys that weapon shall enter information that the weapon has been destroyed into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) within 10 days of the destruction in accordance with procedures prescribed by the Department of Justice. Any agency without access to the AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 5. Section 27620 is added to the Penal Code, to read:

27620. Section 27545 does not apply to the sale, delivery, or transfer of a firearm when made by an authorized law enforcement representative of a city, county, city and county, or of the state or federal government, if all of the following conditions are met:

- (a) The sale, delivery, or transfer is made to one of the following:
  - (1) A wholesaler.

(2) A manufacturer or importer of firearms or ammunition licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) The sale, delivery, or transfer of the firearm is not subject to the procedures set forth in Section 18000, 18005, 34000, or 34005.

(c) Within 10 days of the date that any firearm is delivered pursuant to this section, the governmental agency has entered a record of the delivery into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS). Any agency without access to the AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

SEC. 6. Section 28000 of the Penal Code is amended to read:

28000. A person who is exempt from Section 27545 or is otherwise not required by law to report acquisition, ownership, destruction, or disposal of a firearm, or who moves out of this state with the person's firearm, may report that information to the Department of Justice in a format prescribed by the department.

SEC. 7. Section 28160 of the Penal Code is amended to read:

28160. (a) For all firearms, the register or record of electronic transfer shall include all of the following information:

- (1) The date and time of sale.
- (2) The make of firearm.
- (3) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.
- (4) Any applicable waiting period exemption information.
- (5) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.
- (6) For transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 2 (commencing with Section 31610) of Chapter 4 of Division 10 of this title, or pursuant to former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article read at any time from when it became operative on January 1, 2003, to when it was repealed by the Deadly Weapons Recodification Act of 2010.
- (7) Manufacturer's name if stamped on the firearm.
- (8) Model name or number, if stamped on the firearm.

- (9) Serial number, if applicable.
- (10) Other number, if more than one serial number is stamped on the firearm.
- (11) Any identification number or mark assigned to the firearm pursuant to Section 23910.
- (12) If the firearm is not a handgun and does not have a serial number, identification number, or mark assigned to it, a notation as to that fact.
- (13) Caliber.
- (14) Type of firearm.
- (15) If the firearm is new or used.
- (16) Barrel length.
- (17) Color of the firearm.
- (18) Full name of purchaser.
- (19) Purchaser's complete date of birth.
- (20) Purchaser's local address.
- (21) If current address is temporary, complete permanent address of purchaser.
- (22) Identification of purchaser.
- (23) Purchaser's place of birth (state or country).
- (24) Purchaser's complete telephone number.
- (25) Purchaser's occupation.
- (26) Purchaser's gender.
- (27) Purchaser's physical description.
- (28) All legal names and aliases ever used by the purchaser.
- (29) Yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Chapter 2 (commencing with Section 29800) or an offense described in Chapter 3 (commencing with Section 29900) of Division 9 of this title, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, and whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code.
- (30) Signature of purchaser.
- (31) Signature of salesperson, as a witness to the purchaser's signature.

(32) Salesperson's certificate of eligibility number, if the salesperson has obtained a certificate of eligibility.

(33) Name and complete address of the dealer or firm selling the firearm as shown on the dealer's license.

(34) The establishment number, if assigned.

(35) The dealer's complete business telephone number.

(36) Any information required by Chapter 5 (commencing with Section 28050).

(37) Any information required to determine whether subdivision (f) of Section 27540 applies.

(38) A statement of the penalties for signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register.

(39) A statement informing the purchaser, after his or her ownership of a firearm, of all of the following:

(A) Upon his or her application, the Department of Justice shall furnish him or her any information reported to the department as it relates to his or her ownership of that firearm.

(B) The purchaser is entitled to file a report of his or her acquisition, disposition, or ownership of a firearm with the department pursuant to Section 28000.

(C) Instructions for accessing the department's Internet Web site for more information.

(b) The purchaser shall provide the purchaser's right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(c) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered, together with the firearm dealer's signature indicating delivery of the firearm.

(d) The purchaser shall sign the register or the record of electronic transfer on the date that the firearm is delivered to him or her.

SEC. 7.5. Section 28160 of the Penal Code is amended to read:

28160. (a) For all firearms, the register or record of electronic transfer shall include all of the following information:

(1) The date and time of sale.

(2) The make of firearm.

(3) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.

(4) Any applicable waiting period exemption information.

(5) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(6) For transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 2 (commencing with Section 31610) of Chapter 4 of Division 10 of this title, or pursuant to former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article read at any time from when it became operative on January 1, 2003, to when it was repealed by the Deadly Weapons Recodification Act of 2010.

(7) Manufacturer's name if stamped on the firearm.

(8) Model name or number, if stamped on the firearm.

(9) Serial number, if applicable.

(10) Other number, if more than one serial number is stamped on the firearm.

(11) Any identification number or mark assigned to the firearm pursuant to Section 23910.

(12) If the firearm is not a handgun and does not have a serial number, identification number, or mark assigned to it, a notation as to that fact.

(13) Caliber.

(14) Type of firearm.

(15) If the firearm is new or used.

(16) Barrel length.

(17) Color of the firearm.

(18) Full name of purchaser.

(19) Purchaser's complete date of birth.

(20) Purchaser's local address.

(21) If current address is temporary, complete permanent address of purchaser.

(22) Identification of purchaser.

(23) Purchaser's place of birth (state or country).

(24) Purchaser's complete telephone number.

(25) Purchaser's occupation.

(26) Purchaser's gender.

(27) Purchaser's physical description.

(28) All legal names and aliases ever used by the purchaser.

(29) Yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Chapter 2 (commencing with Section 29800) or an offense described in Chapter 3 (commencing with Section 29900) of Division 9 of this title, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, and whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code.

(30) Signature of purchaser.

(31) Signature of salesperson, as a witness to the purchaser's signature.

(32) Salesperson's certificate of eligibility number, if the salesperson has obtained a certificate of eligibility.

(33) Name and complete address of the dealer or firm selling the firearm as shown on the dealer's license.

(34) The establishment number, if assigned.

(35) The dealer's complete business telephone number.

(36) Any information required by Chapter 5 (commencing with Section 28050).

(37) Any information required to determine whether subdivision (f) of Section 27540 applies.

(38) A statement of the penalties for signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register.

(39) A statement informing the purchaser, after his or her ownership of a firearm, of all of the following:

(A) Upon his or her application, the Department of Justice shall furnish him or her any information reported to the department as it relates to his or her ownership of that firearm.

(B) The purchaser is entitled to file a report of his or her acquisition, disposition, or ownership of a firearm with the department pursuant to Section 28000.

(C) Instructions for accessing the department's Internet Web site for more information.

(40) For transactions on and after January 1, 2015, the purchaser's firearm safety certificate number, except that in the



case of a handgun, the number from an unexpired handgun safety certificate may be used.

(b) The purchaser shall provide the purchaser's right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(c) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered, together with the firearm dealer's signature indicating delivery of the firearm.

(d) The purchaser shall sign the register or the record of electronic transfer on the date that the firearm is delivered to him or her.

SEC. 8. Section 28210 of the Penal Code is amended to read:

28210. (a) (1) Where the register is used, the purchaser of any firearm shall be required to present to the dealer clear evidence of the person's identity and age.

(2) The dealer shall require the purchaser to sign the purchaser's current legal name and affix the purchaser's residence address and date of birth to the register in quadruplicate.

(3) The salesperson shall sign the register in quadruplicate, as a witness to the signature and identification of the purchaser.

(b) Any person furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register shall be punished as provided in Section 28250.

(c) (1) The original of the register shall be retained by the dealer in consecutive order.

(2) Each book of 50 originals shall become the permanent register of transactions, which shall be retained for not less than three years from the date of the last transaction.

(3) Upon presentation of proper identification, the permanent register of transactions shall be available for inspection by any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. Until January 1, 2014, no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not handguns.

(d) On the date of the application to purchase, two copies of the original sheet of the register shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice.

(e) (1) A photocopy of the register shall be provided to the purchaser by the dealer at the time of delivery of the firearm and after the dealer notes the date of delivery and the dealer's signature indicating delivery of the firearm, and the purchaser acknowledges the receipt of the firearm.

(2) The requirements of this subdivision apply if a dealer is delivering a firearm pursuant to Section 27540 or Chapter 5 (commencing with Section 28050).

(f) If the transaction is a private party transfer conducted pursuant to Chapter 5 (commencing with Section 28050), a photocopy of the original shall be provided to the seller by the dealer at the time the register is signed by the seller. The dealer shall redact all of the purchaser's personal information, as required pursuant to subdivision (a) of Section 28160 and subdivision (a) of Section 28165, from the seller's copy, and the seller's personal information from the purchaser's copy.

SEC. 9. Section 28215 of the Penal Code is amended to read:

28215. (a) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present to the dealer clear evidence of the person's identity and age.

(2) The dealer shall require the purchaser to sign the purchaser's current legal name to the record of electronic or telephonic transfer.

(3) The salesperson shall sign the record of electronic or telephonic transfer, as a witness to the signature and identification of the purchaser.

(b) Any person furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the electronic or telephonic transfer shall be punished as provided in Section 28250.

(c) (1) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order.

(2) Each original shall become the permanent record of the transaction, which shall be retained for not less than three years from the date of the last transaction.

(3) Upon presentation of proper identification, the permanent record of the transaction shall be provided for inspection by any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

(d) On the date of the application to purchase, the record of applicant information shall be transmitted to the Department of Justice by electronic or telephonic transfer.

(e) (1) A copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer at the time of delivery of the firearm and after the dealer notes the date of delivery and the dealer's signature indicating delivery of the firearm, and the purchaser acknowledges the receipt of the firearm.

(2) The requirements of this subdivision apply if a dealer is delivering a firearm pursuant to Section 27540 or Chapter 5 (commencing with Section 28050).

(f) If the transaction is a private party transfer conducted pursuant to Chapter 5 (commencing with Section 28050), a copy shall be provided to the seller by the dealer at the time the record of electronic or telephonic transfer is signed by the seller. The dealer shall redact all of the purchaser's personal information, as required pursuant to subdivision (a) of Section 28160 and subdivision (a) of Section 28165, from the seller's copy, and the seller's personal information from the purchaser's copy.

SEC. 10. Section 31835 is added to the Penal Code, to read:

31835. Subdivision (a) of Section 31615 does not apply to the delivery, sale, or transfer of firearms when made by authorized law enforcement representatives for cities, counties, cities and counties, or of the state or federal government, if all of the following conditions are met:

(a) The sale, delivery, or transfer is made to one of the persons or entities identified in subdivision (a) of Section 26620.

(b) The sale, delivery, or transfer of the firearm is not subject to the procedures set forth in Section 18000, 18005, 34000, or 34005.

(c) The sale, delivery, or transfer of the firearm follows the procedures set forth in subdivision (c) of Section 26620.

SEC. 11. Section 7.5 of this bill incorporates amendments to Section 28160 of the Penal Code proposed by both this bill and Senate Bill 683. It shall only become operative if (1) both bills are

enacted and become effective on or before January 1, 2014, (2) each bill amends Section 28160 of the Penal Code, and (3) this bill is enacted after Senate Bill 683, in which case Section 7 of this bill shall not become operative.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

























Approved \_\_\_\_\_, 2013

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*Governor*